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6 UNITED STATES DISTRICT COURT
7 WESTERN DISTRICT OF WASHINGTON
8 AT SEATTLE

9 JACOB ADRIEN NELSON,

10 Plaintiff,

11 v.

12 KING COUNTY SHERIFF'S OFFICE, *et*
13 *al.*,

14 Defendants.

15 Case No. C20-1293 MJP-MLP

16 REPORT AND RECOMMENDATION

17 Plaintiff Jacob Adrien Nelson was previously incarcerated at the Washington Corrections
18 Center in Shelton, Washington, and is currently on work release in Tacoma, Washington.
19 Plaintiff, who is proceeding *pro se* and *in forma pauperis*, filed a proposed civil rights complaint
20 pursuant to 42 U.S.C. § 1983, alleging he was subjected to excessive force while being arrested
21 by the King County Sheriff's Office. (Dkt. # 3-1.) Plaintiff initially named King County Sheriff's
22 Office, King County Sheriff's Office Deputy Ellis, John Does 1-50, and Jane Does 1-50 as
23 Defendants. (*Id.*) The Court declined to serve Plaintiff's complaint due to several deficiencies
and granted Plaintiff leave to amend his complaint. (Dkt. # 6.)

Plaintiff filed an amended complaint on October 29, 2020. (Amend. Compl. (Dkt. # 7).)
Plaintiff's amended complaint alleges he was arrested in March 2017 by an unidentified male

1 King County Sheriff's Office Deputy and a female King County Sheriff's Office Deputy who he
2 identifies as Deputy Ellis. (*Id.* at 4-5.) Plaintiff alleges that although he did not resist arrest, the
3 male deputy put his knee on his neck and knocked out his front tooth. (*Id.*) Plaintiff alleges that
4 the deputy then lifted him up by his coat and tasered him in his back. (*Id.* at 5.) Plaintiff seeks
5 reimbursement to repair his tooth and \$100,000 for emotional duress. (*Id.* at 9.)

6 In an order dated November 16, 2020, the Court declined to serve Plaintiff's amended
7 complaint because he failed to cure the previously identified deficiencies. (Dkt. # 9.)
8 Specifically, the Court found Plaintiff failed to allege that a particular named defendant had
9 caused or personally participated in causing a deprivation of his constitutional rights. (*Id.* at 3.)
10 Although Plaintiff referenced a "Deputy John Doe" as the deputy that allegedly used excessive
11 force during Plaintiff's arrest, he did not further identify the individual. Further, Plaintiff did not
12 identify any of the other "John Does." (*Id.*) The Court also advised that Plaintiff's allegation that
13 Deputy Ellis witnessed the unknown male deputy use excessive force was insufficient to show
14 this deputy personally participated in causing Plaintiff's alleged harm. (*Id.* at 4.)

15 The Court granted Plaintiff leave to file a second amended complaint curing the noted
16 deficiencies within forty-five days of the Court's order and advised that failure to file an
17 amended pleading would result in the recommendation that this action be dismissed. (*Id.* at 4.)
18 To date, Plaintiff has not filed a second amended complaint correcting the deficiencies identified
19 in the Court's previous order or otherwise responded to that order. It thus appears that Plaintiff
20 has elected not to proceed with this action. Accordingly, the Court recommends that Plaintiff's
21 amended complaint and this action be DISMISSED without prejudice for failure to prosecute. A
22 proposed order accompanies this Report and Recommendation.

1 Objections to this Report and Recommendation, if any, should be filed with the Clerk and
2 served upon all parties to this suit within **twenty-one (21) days** of the date on which this Report
3 and Recommendation is signed. Failure to file objections within the specified time may affect
4 your right to appeal. Objections should be noted for consideration on the District Judge's
5 motions calendar for the third Friday after they are filed. Responses to objections may be filed
6 within **fourteen (14) days** after service of objections. If no timely objections are filed, the matter
7 will be ready for consideration by the District Judge on February 5, 2021.

8 The Clerk is directed to send copies of this Report and Recommendation to the parties
9 and to the Honorable Marsha J. Pechman.

10 Dated this 12th day of January, 2021.

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13 MICHELLE L. PETERSON
14 United States Magistrate Judge